

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for July 7, 2005 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #05032

PROPOSAL: A request for a special permit to expand a nonconforming use to increase the area where the sale of alcoholic beverages for consumption on the premises is allowed for the Library Lounge.

CONCLUSION: The use has been at this location for many years, and the nonconforming condition caused by access doors not meeting the required separation for a conditional use in the B-2 is not made worse by this request. If approved, one of the nonconforming doors will be surrounded by the proposed beer garden fence, and the applicant states the lounge will expand into an adjacent bay which has an east-facing door that opens to the interior of the shopping center.

<u>RECOMMENDATION:</u>	Conditional Approval
-------------------------------	----------------------

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached ownership certificate.

LOCATION: 6891 A Street, Suite 200

EXISTING ZONING: B-2 Planned Neighborhood Business

EXISTING LAND USE: Commercial

SURROUNDING LAND USE AND ZONING:

North:	Commercial	B-2
South:	Commercial	B-2
East:	Commercial	B-2
West:	Two-family Residential	R-4

HISTORY:

May 30, 1995 - Pre-existing Use Permit #22D was approved granting authority to construct additional drive-through lanes for the bank at the northeast corner of the site.

March 31, 1993 - Pre-existing Use Permit #22C to allow a pole sign for the bank was withdrawn.

April 17, 1989 - Pre-existing Use Permit #22B was approved granting authority to expand the Dairy Queen and add a drive-through facility.

December 12, 1988 - Pre-existing Use Permit #22A was approved granting authority to construct additional ground signs for Vistar Bank.

August 31, 1987 - Pre-existing Use Permit #22 was approved allowing an expansion of the grocery store.

1979 - The zoning was changed from G-1 to B-2 with the 1979 Zoning Update.

June 23, 1964 - The zoning was changed to G-1 Planned Commercial District for Clocktower Shopping Center. The center was developed in compliance with the existing regulations prior to the requirement for a use permit.

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan designates commercial land uses for this area.

BACKGROUND: The subject premises is located within the Clocktower Shopping Center, developed in the late 1960's. The sale of alcohol at the Library Lounge pre-dates when the sale of alcohol was made a conditional use in the B-2, adopted in 2004, and the requirement making the sale of alcohol a special permit in all commercial districts which was adopted in 1994. In the B-2, the sale of alcohol is allowed provided the applicable conditions are met. If operating prior to the adoption of the alcohol provisions and not meeting the requirements they are considered nonconforming uses. In the B-2, doors must be more than 100' from a residential district, and more than 150' away if the door opens onto the residential district. In this case, the west door faces the R-4 and is approximately 64' away, and the south door is approximately 90' away. As a result, this use does not comply with the applicable conditions for the sale of alcohol in the B-2 and is nonconforming. A special permit as required under LMC Section 27.63.280 Expansion of Nonconforming Uses must be approved for the proposed beer garden to be allowed.

This request seeks to expand the licensed premises to include an outdoor beer garden area at the south end of the building. The beer garden, approximately 24' x 60' (1,440 square feet) is proposed to be surrounded by a fence and eliminates six existing parking spaces.

ANALYSIS:

1. SPECIAL PERMIT REQUIREMENTS FOR EXPANSION OF NONCONFORMING USES PER LMC 27.63.280.

(a) Effects on adjacent property, traffic, city utility service needs.

The Clocktower Shopping Center was developed in the late 1960's, prior to the adjacent homes which were built between 1977 and 1993. The proposed expansion is approximately 63' from the R-4 district to the west, where the shopping center abuts the rear yard of the homes which front onto Kingston Road. The adjacent homes are all two-family, with the exception of a single-family at the intersection of Rexford Drive and Kingston Road.

The nonconforming condition caused by the existing west and south-facing doors being located less than the required distance to the R-4 is not made worse by the proposed expansion. As shown, the proposed fence actually encloses the area surrounding the south door. The applicant notes that if this request is approved, the intent is to expand the lounge into the adjacent tenant bay on the east side of the building, which will provide an access door that faces east and opens into the shopping center.

The proposed expansion consists of a 24' x 60' (1,440 square feet) outdoor beer garden attached to the south end of the building. It removes six parking spaces, and relocates the existing sidewalk from the south edge of the building to the south end of the beer garden. Public Works notes that the beer garden does not provide adequate sight distance as shown on the site plan. It projects too far south for cars in the parking lot drive aisles to see the east-west traffic entering and leaving the center. Public Works notes that the dimensions of the addition must be reduced to approximately 24' x 40' while remaining centered on the building to provide for safe traffic flow. A revised site plan must be approved by them to confirm adequate sight distance.

(b) Density of land use zoning for the subject property and adjacent property.

This site is zoned B-2, and off-street parking must be provided at the ratio of 1 space per 300 square feet of floor area, except for restaurants which are one space per 100 square feet. Based upon the existing uses in the shopping center, the Building and Safety Department has confirmed there are 97 excess parking spaces. After removing six and creating the requirement for 15 more (based upon floor area) there are 76 excess stalls remaining.

(c) The degree of hardship upon the applicant which would be caused by failure to grant such a permit.

The Library Lounge as it exists can continue to operate regardless of whether this application is approved or not. Additionally, denial of this request does not prohibit the construction and use of the outdoor seating area for smoking or dining, but only prohibits the sale or consumption of alcoholic beverages. The applicant states that this request is in response to the indoor smoking ban, and is an attempt to provide an outdoor area where people can smoke and be served alcohol.

3. DEPARTMENT RESPONSES:

POLICE: The Police Department had no objection to this request.

PUBLIC WORKS: Public Works and Utilities requests the addition be reduced in area to allow for adequate sight distance.

HEALTH: As an advisory note, the Health Department recommends that if smoking is allowed in the outdoor patio area, that at least 20% of the area of the total square footage of the walls and ceiling be open to ensure adequate ventilation.

CONDITIONS:

Site Specific:

1. This approval permits the expansion of the area designated for the sale of alcohol for consumption on the premises as shown on the site plan.

General:

2. Before receiving building permits:
 - 2.1 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department for review and approval.
 - 2.1.1 Five copies of a revised site plan showing the following revisions:
 - 2.1.1.1 Reduce the dimensions of the outdoor beer garden to the satisfaction of Public Works and Utilities, with the beer garden remaining centered along the south wall of the existing building.
 - 2.2 The construction plans comply with the approved plans.

Standard:

3. The following conditions are applicable to all requests:
- 3.1 Before the sale of alcohol for consumption on the premises, all development and construction is to comply with the approved plans.
 - 3.2 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 3.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 3.4 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Prepared by:

Brian Will, AICP, 441-6362, bwill@lincoln.ne.gov
Planner
June 15, 2005

OWNER: Richard Agee
2541 Woodleigh Lane
Lincoln, NE 68502

APPLICANT/:
CONTACT: Cynthia Swanson
1840 Rusty Lane
Lincoln, NE
(402) 450-6850



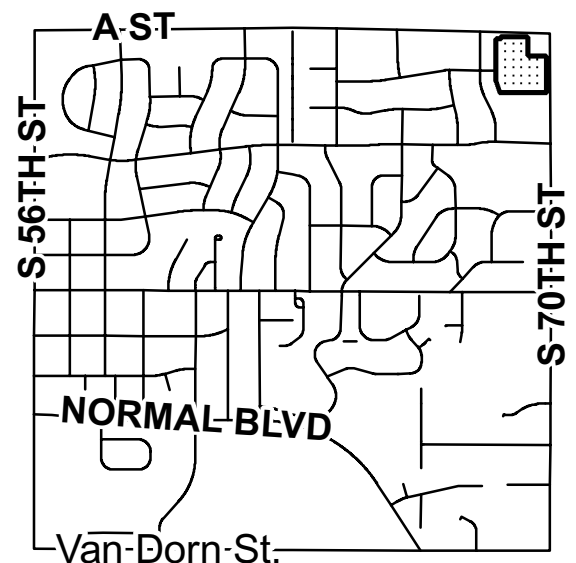
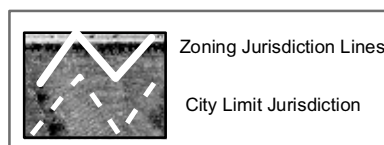
2002 aerial


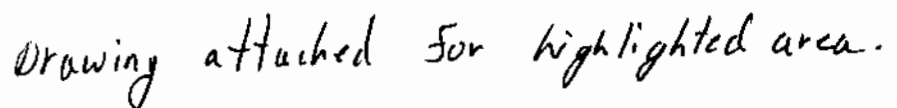
Special Permit #05032 S. 70th & A St.

Zoning:

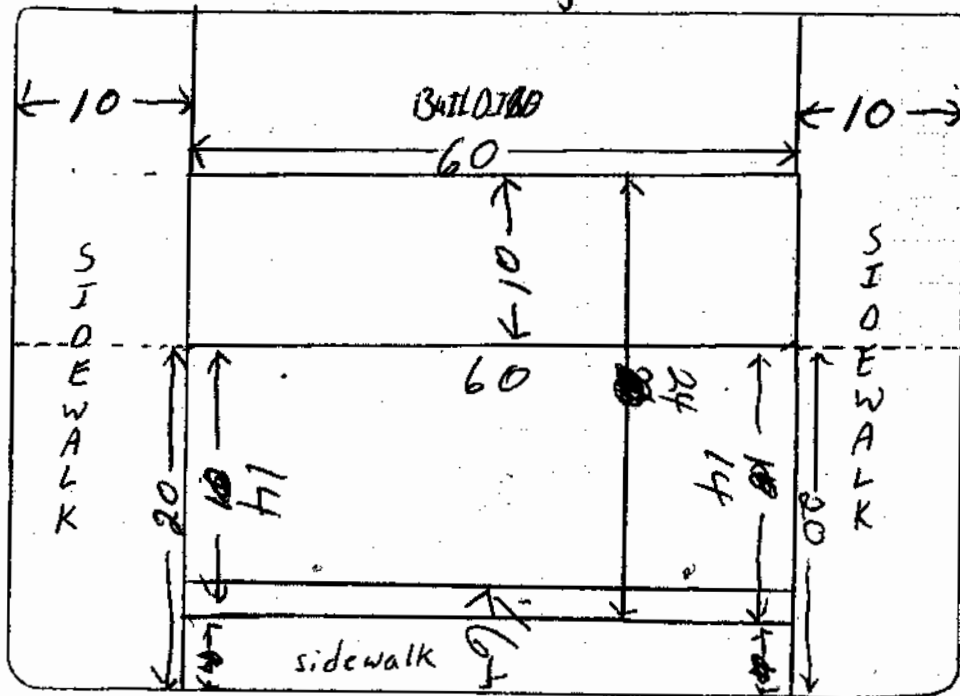
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 33 T10N R7E



 PROPOSED EXPANSION

N
W ↑ E
S



1500
24
1440
1440-8

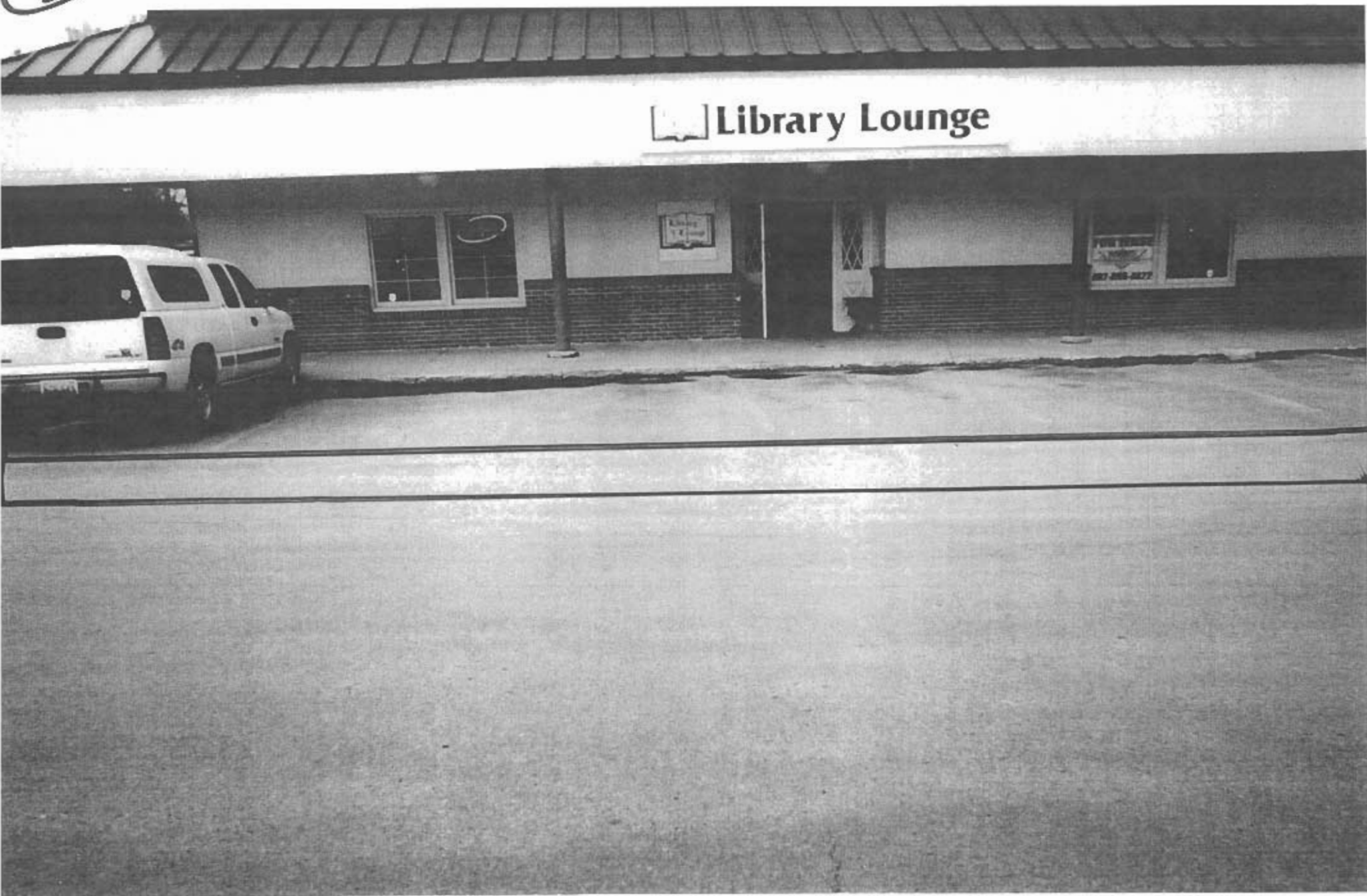
① Area of proposed expansion. View of southwest corner of bldg.
Looking west to east.



② Area of proposed expansion. View of south side of bldg. looking north.

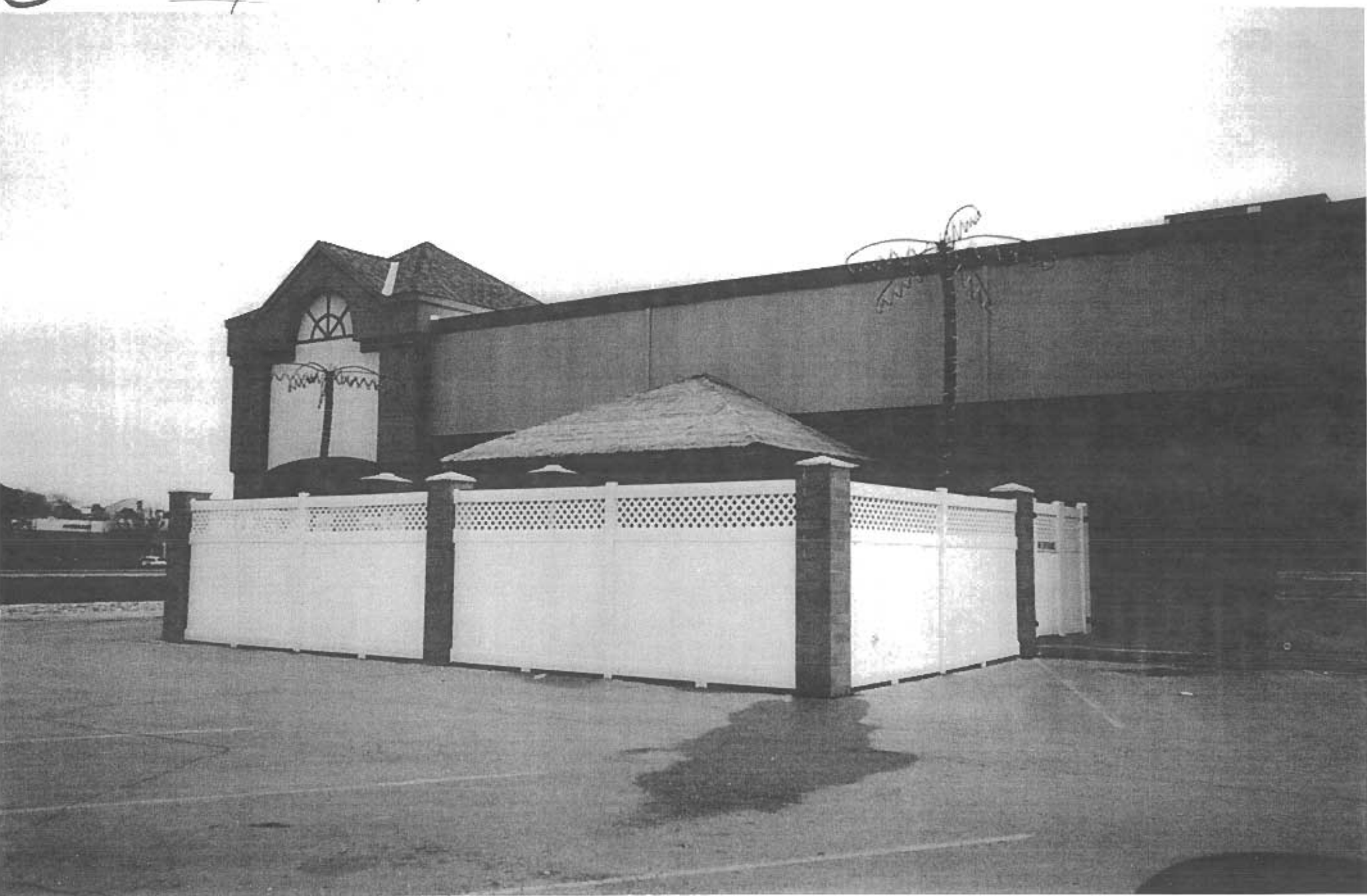


(B.) Area of proposed expansion. View of south side of Bldg. looking north.



④

Example of proposed structure



June 7, 2005

City of Lincoln
Planning Commission
555 So. 10th Street
Lincoln, NE 68508

Purpose of Application

This application is to allow for the construction of an outside seating area on the south side of the existing building currently housing the Library Lounge in the Clocktower Shopping Plaza at 70th and A Streets. The Library Lounge is a cocktail lounge which serves alcohol in the form of wine, beer, and liquor. The Lounge currently occupies 2,300 square feet on the west side of Section 6, Building B. If the outside seating area is approved, the Lounge would expand to include another 1,800 square feet on the east side of Section 6, Building B.

The site plan for the shopping plaza is attached along with a separate drawing of the proposed outside seating area. The proposed area would provide 1,440 square feet of outside seating space on the south end of building B and would eliminate the seven parking spaces currently located on that end of the building. Also attached are three pictures of the south end of the building where the proposed seating area would be constructed and a fourth picture showing a structure comparable to what I am proposing.

This permit is being requested to allow smoking customers an area to smoke and drink alcoholic beverages since the Lincoln smoking ban which went into effect January 1, 2005 does not allow smoking indoors.

Cynthia J. Swanson
Proprietor
Library Lounge

OWNERSHIP CERTIFICATE

FILE NO: 6022892

TO: Sara Hartzell
Planning Department

Nebraska Title Company, authorized to engage in the business of abstracting in the State of Nebraska under Certificate of Authority No. 56, hereby certifies that the records of LANCASTER County, Nebraska have been carefully examined with referenced to the following described property, and from such examination finds as follows:

LEGAL DESCRIPTION:

Lot Four (4), except the North 190 feet of the East 190 feet thereof, Block One (1),
Huntington First Addition, Lincoln, Lancaster County, Nebraska

Address: 6891 A St, Lincoln, NE 68510

OWNER OF RECORD:

Richard W. Agee, Trustee of the Richard W. Agee Restated, Amended and Substituted Revocable Trust dated September 18, 2001; and Eloise R. Agee and Richard W Agee, Trustees of the Eloise R. Agee Restated, Amended and Substituted Revocable Trust dated September 18, 2001; SUBJECT TO Leasehold rights of CTC, Inc.

Effective Date: June 6, 2005 at 8:00 am

Nebraska Title Company

By: 
Vice-President
Registered Abstracter

Please direct inquiries to: Joan Journey

M e m o r a n d u m

To: Brian Will, Planning Department

From: Charles W. Baker, Public Works and Utilities

Subject: Clocktower Special Permit #05032 and Administrative Amendment to Use Permit #22D

Date: June 14, 2005

cc: Randy Hoskins

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the site plan for the proposed smoking room addition to the Library Lounge located on the south end of the existing building in the Clocktower Center at 70th and "A" Streets. Public Works has the following comments:

- The site plan as submitted for the building extension does not allow adequate sight distance for vehicle and pedestrian traffic from the adjacent drive aisles of the parking lots. It appears that an addition of up to 40' in width, centered on the existing building, might meet the standard. A detailed site plan will be required to be submitted for review.
- Show that the reduction of the proposed 7 parking stalls does not adversely affect the number of required parking stalls for the center.